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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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BUCHANAN, INGERSOLL & ROONEY PC  
POST OFFICE BOX 1404  
ALEXANDRIA, VA 22313-1404

EXAMINER

KIDWELL, MICHELE M

ART UNIT PAPER NUMBER

3761

DATE MAILED: 12/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/194,700

Examiner

Michele Kidwell

Applicant(s)

WIDLUND, URBAN

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 3-7, 10, 13-15, 17, 20, 23-30 and 34-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-7, 10, 13-15, 17, 20, 23-30 and 34-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 September 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: reference character 16a is not shown in the drawings. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "16" has been used to designate both hydrophobic material and a hydrophilic layer. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37

CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The amendment filed September 5, 2006 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

- the applicant has amended the specification to recite that instead of having a liquid pervious surface layer, the article has a liquid pervious first side.
- The applicant also includes language to state that this first side includes first and second layers and that the first layer consists of a hydrophobic material.
- The applicant includes language and an outer edge portion of the wetting region is bordered by hydrophobic material

The examiner notes that specification as amended is replete with amendments that introduce new matter. The specification should be revised carefully in order to ensure that no new matter is added to the originally filed disclosure.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 3 – 7, 10, 13 – 15, 17, 23, 25, 27, 29, 35, 37 and 40 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The applicant claims a liquid pervious surface user facing first side that includes a liquid pervious surface layer that consists of a hydrophobic absorbent material and then later claims that the first side consists of a hydrophilic absorbent material. This configuration is not supported by the originally filed specification.

Claims 3 – 7, 10, 13 – 15, 17, 23, 25, 27, 29, 35, 37 and 40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to the independent claims, it is unclear how the first side can consist of a hydrophobic material and a hydrophilic material. If the first side includes the liquid pervious surface layer than the first side will encompass all of the properties of that layer including consisting of a hydrophobic material. Likewise, if the first side exhibits a wetting region as claimed, then the wetting region will also encompass of the properties of the first side which, as set forth above, consists of a hydrophobic material.

It is unclear how the applicant can now state that this same first side consists of a hydrophilic material. Correction and/or clarification are required.

Likewise, with respect to claims 3 and 4, the scope of the claims is unclear. The claim refers to hydrophilic material in the liquid pervious surface layer, but the liquid pervious surface layer, according to independent claim 34 upon which claims 3 and 4 depend from, consists of hydrophobic material. The first side exhibits a wetting region that includes hydrophilic material, but the first side is not necessarily limited to the liquid pervious surface layer. It is unclear what the applicant intends to claim as an invention.

Claim 30 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 30 is dependent upon a claim that does not exist.

Where the metes and bounds of a claim are indefinite, it is improper to base a rejection on speculation as to the meaning of the claim. In re Steele, 305 F.2d 858, 134 USPQ 292 (CCPA 1962). Specifically, unclear claims are indefinite, not obvious. In re Wilson, 424 F.2d 1382, 185 USPQ 494 (CCPA 1970).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5, 7, 10, 13 – 15, 17, 20 and 23– 29, 34, 36 and 38 – 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Robinson (US 5,330,456).

As to claim 5, Robinson discloses an absorbent article consisting of polypropylene fibers as set forth in col. 5, lines 15 – 19.

As to claim 7, Robinson discloses an article comprising a liquid pervious, hydrophobic material layer arranged between the absorbent body and the hydrophilic absorbent material as set forth in col. 5, lines 35 – 40 and in col. 4, lines 16 – 23.

With reference to claim 10, Robinson discloses an absorbent article wherein the hydrophobic material is constituted of a hydrophilic material which has been rendered hydrophobic as set forth in col. 5, lines 35 – 40.

As to claims 13 and 14 – 15, Robinson discloses an absorbent article comprising a shaping member as claimed with compressions as shown in figure 2 represented by the sloped sides of member 12. The insert is considered as layer 14, 16 or 32 as shown in figure 4.

With reference to claims 17 and 20, Robinson discloses an absorbent article wherein the wetting region covers at least part of the absorbent body as set forth in figure 6.

Regarding claims 23 – 26, see col. 4, line 36.

As to claims 27 – 29, the examiner considers the area contacted by the wetting region as constituting the mucous membranes of the user.

With respect to claims 34 and 36, Robinson discloses an absorbent article and method thereof comprising a liquid-pervious user-facing first side (102) including a

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liquid-pervious surface layer consisting of a hydrophobic material, a second side opposite the first side and including a liquid-impervious surface layer (104) and an absorbent body (10) disposed between the two surface layers wherein the first side exhibits a wetting region adapted to be disposed adjacent the mucous membranes of the user, which is the region of the first side to be wetted by body fluid emitted to the article (figure 6), wherein the wetting region consists of hydrophilic absorbent material adapted to retain moisture, and an outer edge portion of the wetting region being bordered by the hydrophobic material of the liquid pervious surface layer situated outwardly of such edge (col. 5, lines 37 – 40) and wherein an extent of the wetting region is smaller than an extent of the absorbent body as set forth in figure 6.

With respect to claims 38 – 39, see the rejection of claim 1.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robinson (US 5,330,456).

The difference between Robinson and claim 6 is the provision that the hydrophobic material is polyethylene foam.

Robinson teaches hydrophobic material as set forth in col. 5, lines 14 – 19.



It would have been obvious to one of ordinary skill in the art to substitute one type of hydrophobic material for another, absent a teaching of any unexpected result, since the general condition of the claim has been taught by the prior art and substitution of one type of hydrophobic material for another is within the level of ordinary skill in the art.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.


See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 571-272-4935. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Michele Kidwell  
Primary Examiner  
Art Unit 3761